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ABSTRACT

This paper is related to a similar statement presented at a Federal Trade Commission Symposium on Media Concentration. It was submitted by the Authors Guild to Senator Edward Kennedy's Subcommittee on Antitrust and Monopoly on May 10, 1978. It is one of several memoranda by the Guild opposing the acquisitions and mergers they feel have given conglomerates and large publishing companies increasing control over major lines of book publishing commerce. This statement discusses the following subjects: the antitrust law's prohibition on undue concentration in any relevant line of commerce within book publishing; conglomeration and concentration in book club/mail order publishing, in mass market paperback publishing, and in trade book publishing; the impact of this concentration on independent trade book publishers and authors and on the security of the First Amendment marketplace of ideas; and the effect of this concentration on the publishing industry's ability to fulfill its social and cultural responsibilities. (MKM)

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Statement of The Authors Guild, Inc.
by Irwin Karp, Counsel

The Authors Guild has issued several memoranda opposing the wave of acquisitions and mergers that has given conglomerates and large publishing complexes increasing control over major lines of book publishing commerce. The Guild has urged action by the Federal Trade Commission and Department of Justice to halt and reverse this trend to concentration, which violates Section 7 of the Clayton Act, and recommended other steps to diminish its effect.

Three of the Guild's memoranda have been submitted to the Subcommittee.* This statement summarizes some points they make and comments on concentration in the trade book publishing market. It then discusses the impact of conglomeration and concentration on:

... The publishing industry's ability to fulfill its cultural and social responsibilities; and

... The security of the First Amendment "marketplace of ideas".

I. Conglomeration and Concentration of Power

Sec. 7 of the Clayton Act

Sec. 7 prohibits acquisitions and mergers that "may tend to lessen competition" or destroy an industry structure composed of

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* June Mem. Statement on The Continuing Trend to Concentration of Power.(June 6, 1977)
Aug. Mem. Memorandum on Concentration in the Book Club Market and Mass Paperback Market. (August 2, 1977)
Nov. Mem. Memorandum on the Sec.7 consequences of the Time,Inc.-Book-Of-The-Month Club Merger.(November 21, 1977)

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independently-owned companies. Its purposes are to stop a "trend to concentration" in the early stages, and to forestall possible future development of anticompetitive practices -- rather than to deal with existing abuses, which are the province of the Sherman Act (June Mem., pp.2-5).

The Relevant Lines of Book Publishing Commerce

Sec. 7 prohibits undue concentration, and the elimination of independent companies, in any "relevant line of commerce" within an industry. Mass market paperback publishing, for example, is a relevant line of commerce under the judicially-developed criteria. Book club/mail order publishing is another line of commerce. Undue concentration in either of these markets would, of itself, violate Sec. 7, regardless of the degree of concentration in other lines of book publishing commerce. (Aug. Mem., Nov. Mem.) Among the other lines of commerce are: college textbooks; elementary/high school textbooks; scientific, medical and other professional books; and reference books.

"Trade book" publishing is a separate line of commerce, consisting of books that do not fall into these other markets. It includes biography, history, fiction, poetry, social commentary and other general interest works that are sold primarily in book stores in hard cover editions or "trade paperback" editions (at higher prices than mass market paperbacks). The same work often is sold in different editions, in different lines of commerce. Thus, a biography may be: published in a hardcover edition by Houghton Mifflin,

and sold by it in the trade book line of commerce; republished in a lower-priced paperback edition by Bantam Books, and sold by it in the mass market paperback line of commerce (in thousands of non-book store outlets, plus book stores); and republished by Book-Of-The Month Club and sold by it in the book club/mail order publisning. line of commerce.

Undue concentration of power in any line of book publishing commerce affects authors who write for it. Many Guild members and other professional authors write for the two text book markets which are dominated by large publishing complexes and subsidiaries of conglomerates. More authors, of course, are adversely affected by the excessive concentration of power that has occurred in three lines of commerce: mass market paperbacks; book club/mail order; and trade publishing. Moreover, conglomeration and concentration in the first two of these markets has had a heavy impact on independent publishers and authors in the trade book market.

In its April 1978 response to the Authors Guild statements, the Association of American Publishers ("AAP") suggests that Guild members are only concerned with the trade book publishing line of commerce. This totally erroneous assertion seeks to divert attention from heavy conglomeration in the other lines of commerce, which AAP studiously ignored in its statement.

Conglomeration and Concentration in Mass Market Paperback Publishing

Ten mass market paperback publishers account for approximately 90% of the sales in this line of commerce. (Aug. Mem., p. 4)

Several of the ten firms had been independently-owned companies. Now, each of the ten firms is owned by a conglomerate, as are some of their few other competitors. The owners include: communications conglomerates such as RCA, CBS and MCA; "outside" conglomerates such as Gulf & Western; and publishing conglomerates such as Doubleday, Times-Mirror, Hearst and Bertelsman ("the largest publishing conglomerate in the world."; N.Y. Times 3.17.78). The Authors Guild believes that this conglomeration -- which puts the dominant mass market paperback publishers under the control of corporate masters that own television networks and stations, motion picture companies, newspapers and magazines -- threatens independent paperback publishers and forecloses others from entering this market. (June Mem., pp.9-10)

One of the most dangerous consequences of the conglomeration in this line of commerce is that it has expanded the vertical integration of major mass market paperback publishers with leading publishers in the trade book market. CBS, RCA, Gulf & Western, and MCA, for example, own dominant publishing companies in both markets. Doubleday, the largest trade book publisher and book club publisher, now owns Dell - one of the top 5 mass market paperback publishers. This vertical integration has drastically increased the competitive disadvantage of remaining independent trade book publishers, in violation of Sec. 7. (June Mem., pp. 11-12)

Conglomeration and Concentration in Book Club/Mail Order Publishing

Concentration in this line of commerce far exceeds the limits of Sec. 7. 89% of book club net sales, in 1976, were made by

10 book club publishers. Over 50% of the net sales were accounted for by Doubleday (Literary Guild and other clubs) and Book-of-The-Month Club (BOMC and subsidiary clubs). (Nov. Mem., p.2; Aug. Mem., pp.3-4).

Time, Inc., leader of the book club/mail order line of commerce, increases its "market-share" from 24.3% to 36.2% by the acquisition of Book-of-The-Month-Club, which had been #5 company in this market. Whether book club publishing and mail order publishing are considered as one or two lines of commerce, the Authors Guild believes the Time,Inc./BOMC merger transgresses Sec. 7. (Nov. Mem.)

Now, both of the major book club complexes -- sharing more than 50% of this market -- are vertically integrated with leading publishers in the trade book market. Doubleday, which owns the Literary Guild cluster of clubs, is the largest trade book publisher, and also has acquired two trade publishing competitors: Dial and Delacorte. Time, Inc., which owns the BOMC cluster of clubs, also owns Little, Brown and Company, a dominant trade book publisher. This vertical integration has drastically increased the competitive disadvantage of remaining independent trade book publishers, in violation of Sec. 7.

The Impact of Mass Market Paperback and Book Club Conglomeration/ Concentration on Independent Trade Book Publishers and Authors

There is heavy competition among trade book publishers to license their books for republication by mass market paperback publishers and book clubs. Paperback publishers and book clubs

only republish a fraction of all the trade books that are offered to them by trade publishers. Only a few best-selling or potentially best-selling trade books stimulate competition among paperback publishers to acquire them. For the vast majority of books initially published by trade publishers, it is the trade publishers who must compete to win some of the limited number of mass market paperback and book club reprint licenses available each year.

These licenses are enormously important to independent trade book publishers and authors, because they depend so heavily on the income derived from paperback and book club editions of their works. If that income is reduced, some independent trade publishers ultimately will be forced out of business. If the opportunities to obtain licenses are diminished, many authors will be denied income that often is the major compensation for their work on a book; and will be unable to reach the paperback and book club audiences that often are much larger than the original trade book reading audience.

The opportunities of trade book publishers and authors to obtain paperback and book club reprint licenses for their works are being severely diminished and this adverse impact is bound to increase, since they must look to several of the major paperback publishers (and others) who now are owned by conglomerates that also own leading trade book publishers , or owned by trade publishers. In competing for the limited number of reprint licenses made by these paperback firms, independent trade publishers must vie with the

trade book companies that are integrated with the paperback firms by conglomerate ownership or direct ownership.

Independent trade book publishers will feel the same adverse impact in competing for the limited number of reprint licenses made by the Doubleday clubs and the BOMC clubs; they will be competing with major trade book publishers that are integrated with the two clusters of clubs by conglomerate ownership or direct ownership.

Conglomeration and Concentration in Trade Book Publishing

1. The majority of new books are issued by trade book publishers. Trade book publishing is still a fundamental marketplace for professional authors and others who hope to reach a national audience of readers: readers in the trade book market; and then, if reprint licenses can be won, readers in the mass paperback and book club markets. Professional authors, of course, include the many who work in other fields -- journalists, teachers, lawyers, doctors, business men, public officials, etc. -- and also write books as a profession.

2. The trend to concentration in the trade book line of commerce transcends the limits of Sec. 7; the result of conglomerate acquisitions of major trade publishers, and the absorption of many significant medium sized firms. In its statement, AAP seeks to obscure this concentration by claiming that 1200 publishers are really competing in the national trade book market. This simply is not so. Only a tiny fraction of all trade book publishers have sufficient resources to function effectively and compete in this national market.

3. A more candid and realistic appraisal of the trend to concentration was given by the president of a leading trade book publisher which, like several of its actual competitors, is owned by a conglomerate. He is Richard Snyder of Simon & Schuster, which is the property of Gulf & Western: the conglomerate that also owns Pocket Books (one of the 10 major paperback publishers) and Paramount Pictures. In a Publishers Weekly interview, Mr. Snyder said

> " ... I was the voice that said many, many years ago that there was going to be a consolidation in this industry before it even started to consolidate. However,it has gone well beyond whatever I thought it could go to. What we are going to see now, if this trend continues, is that like the seven sisters of the oil business we will have seven giant publishing companies of varying size, either as part of a conglomerate or become like a Doubleday, which itself is a bit of a conglomerate." (April 11, 1977; p.38)

A primary purpose of Sec. 7 was to stop a trend to concentration well before it reaches the point already attained in trade book publishing, rather than wait until it reaches the extreme degree predicted by Mr. Snyder.

4. Why the enormous discrepency between AAP's purported 1200 "competing" publishers, and Mr. Snyder's informed analysis that the trend to concentration already has gone well beyond his earlier prognosis? Because the trade book publishing line of commerce contains hundreds of small companies that cannot compete in the national trade book market -- and a very few companies that have the capacity to do so.

(i) The 1200 "book publishing companies" cited by AAP apparently is a total figure for all lines of publishing commerce.

Its utter irrelevance to actual concentration of power is illustrated by the very few mass market paperback and book club publishers that totally dominate their respective lines of commerce.

(ii) The 1200-company figure is equally irrelevant to the state of concentration in trade book publishing. Many small companies -- probably more than 1200 -- publish only a few titles each year. Moreover, they lack the capital to produce, advertise, promote and distribute their books effectively in the national trade book market. Total sales of any title are very small. With rare exceptions, these companies do not offer authors any opportunity to reach a national trade book audience, or to earn even a marginal compensation for their work.

4. Only a tiny fraction of the "1200 publishing companies" possess the resources to function effectively in the national trade book market. The Authors Guild believes that the number of trade publishers capable of providing any competition for the leading companies is probably less than 50, including some medium sized independents that will be swallowed by conglomerates or large publishing complexes if and when governmental and press interest in the merger trend wanes. The number of trade publishing companies that now dominate their line of commerce is already considerably less than 50.

(i) Only these few trade publishing companies have the financial capability of providing professional authors and others with a possibility that their books will reach some audience in the national trade book market, and subsequently in the paperback and

book club markets. Each of these companies publishes a substantial number of titles each year that are sold to a large number of book stores. It has the resources for advertising, promotion and distribution. Many of its titles each year are reviewed in national media, and several are licensed for book club and paperback publication. It has substantial sales in the national trade book market.

(ii) These are the companies that can provide authors some chance of earning reasonable compensation for months or years of work on a book. And these are the companies that most professinal authors and agents consider capable of publishing their works in the national trade book market.

5. A true picture of the degree of concentration in trade book publishing requires a disclosure of (a) aggregate unit sales and gross revenues of those companies that do function effectively in the national trade book market; and (b) the share of those totals accounted for by Random House, Doubleday, Harcourt/Brace, Simon and Schuster, Harper & Row and each of the other companies in this group. This, of course, would also disclose the meaningful market share held by the "top eight companies", the "top sixteen", and the "top twenty four". (The AAP statement only contends that the share of the "top eight companies dropped 6 percent".)

6. The aggregate number of titles and revenues of hundreds of small publishers -- each of whom produces a few titles and small sales -- is included in the totals on which the industry's statisticians compute the market shares of the major trade publishers. This

obscures the true extent of concentration.

7. AAP argues that a majority of the book publishing firms acquired or merged were "quite small." This is a specious argument. Many of the medium and large-sized publishing firms that accounted for much of the production and competition in the trade book market have been acquired by conglomerates and large publishing complexes. A number of these are listed in the Guild's June Memorandum. A few are cited here, for illustration:

Random House+Knopf+Pantheon (RCA); Simon & Schuster (Gulf & Western); Holt, Rinehart & Winston (CBS); Viking (Penguin Books); Little,Brown (Time, Inc.); Harper & Row+Basic Books+ Barnes & Noble+T.Y. Crowell(38.6%-controlled by Minneapolis Star & Tribune); Putnam's+Coward,McCann&Geoghegan (MCA); Bobbs-Merrill (ITT); William Morrow (Scott, Foresman); E.P. Dutton (Elsevier).

It is not clear whether AAP considers that Dell, Fawcett, New American Library and other mass market paperback leaders, taken over in conglomerate mergers, were "quite small." And apparently it wishes to ignore the huge size to which some book publishing conglomerates have grown by a diet of mergers.

8. AAP contends that many "new companies" have entered book publishing. But those that have entered trade book publishing, and other lines of commerce, have been small companies that do not compete effectively in the national trade book market. There has not been a single new trade publisher of the size or strength needed to replace Random, Little/Brown or any of the other middle

or large-sized firms that lost their independence in mergers.

Several of the so-called "new companies" are only imprints controlled by large publishing complexes. An editor contracts for books to be published under his "imprint"; the large publisher provides the financing, produces and distributes the books, and has the ultimate control that money buys.

9. To support its claim of "many new companies", AAP cites 173 firms founded since 1971. It does not indicate who they are, what they publish, or what the volume of their sales are. It only states that they published a total of 4,250 titles in 1976 - an average of 24 titles per company for the year.

In that same year, according to THE LITERARY MARKET PLACE (Bowker, 1977-78), 63 firms produced more than 200 titles each -- their total production was 24,039 titles, an average of 381 titles per firm for 1976. Actually the degree of concentration was even higher, since several of the "publishers" own subsidiaries or are subsidiaries of other publishers or conglomerates. According to their Bowker listings, for example: the firms owned by CBS published a total of 1,517 titles; the firms owned by RCA published a total of 810 titles; and Harper & Row and its subsidiaries, and J.B. Lippincott and its subsidiaries (scheduled to merge), published a total of 1,759 titles.

10. In its statement, AAP cites four transactions which, it claims, indicate that the interest of nonpublishing conglomerates "appears to be diminishing." Actually, the three consummated transactions increased concentration in various publishing lines of commerce;

and the fourth would have done so, if it had been completed. Dun & Bradstreet's sale of Crowell to Harper & Row turned over to Harper control of a firm that competed with it in the trade book and text book markets; it eliminated Crowell as a competitor of Harper. General Electric's sale of Silver Burdett to Scott,Foresman neatly combined two firms that publish in the elementary/high school textbook, expanding Scott, Foresman's publishing complex. The Xerox sale of its college publishing division to John Wiley simply increased concentration in that textbook market, since Wiley is one of the largest college textbook publishers. Moreover, Xerox is still a conglomerate "interested" in publishing: it owns the publishing trade journal ("Publishers Weekly"), the company that publishes the industry's reference books (Bowker), the nation's leading microfilm publisher (University Microfilms) and Ginn & Co (a major textbook publisher). Finally, the aborted RCA sale of its Random complex to Times-Mirror would have increased concentration in the mass market paperback line of commerce.

II. The Effect of Conglomeration and Concentration On The Publishing Industry's Ability to Fulfill Its Social and Cultural Responsibilities

Legislative history and Supreme Court opinions emphasize that Sec. 7 was intended to preserve the existence of independent companies because that independence enabled them to serve essential social interests. Nowhere is the preservation of independently-owned companies more important than in book publishing.

1. Book publishing is not "just another business." Its

purpose is not merely to earn maximum profits for stockholders. Book publishers have "cultural and social responsibilities ... to provide the widest possible choice of books - books that are the legacy of our cultural heritage, and books that explore the fringes of the present and the frontiers of new thinking."

Book publishing's ability to fulfill these responsibilities is increasingly threatened by conglomeration and concentration of power in the trade book, paperback and book club markets.

(i) The trend to concentration has eliminated many leading trade book publishers as independent enterprises in the literary marketplace, and concentrated ultimate control of the decision making process in the hands of another publisher or an outside conglomerate. This drastic reduction in the number of truly independent publishing entities, in itself, endangers trade book publishing's ability to "provide the widest possible choice of books." For diversity of sources is the fundamental requirement of a literary marketplace that can best perform this essential social function.

(ii) The Supreme Court emphasized this 33 years ago, when it explained why enforcement of the antitrust laws in publishing was essential to protect the First Amendment.

> "The First Amendment, far from providing an argument against application of the Sherman Act here, provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public ..." (Associated Press v. U.S. 1, 20) (emphasis added)

(iii) The acquisition of 2 trade publishers by a third

reduces the number of "diverse and antagonistic sources", leaving one source in place of three. It matters not that the acquired publishers continue to operate as separate subsidiaries or divisions of their corporate master. The ultimate decision-making power, and the power to hire and fire -- the fundamental conditions of true independence -- rest in the hands of the publishing complex or comglomerate that now owns the acquired trade publishers. The cumulative reduction in the number of "diverse and antagonistic sources", through mergers and acquisitions of significant trade publishers, has been enormous.

(iv) Moreover, conglomeration has produced other serious threats to the diversity of sources in the literary marketplace. Not only have Holt/Rinehart, Saunders, Praeger, Fawcett and Popular Library been eliminated as independent "sources" -- but ultimate control over the information and ideas they disseminate rests in the hands of CBS which owns and operates television and radio stations and networks. These, too, are sources of information and ideas that should be "diverse and antagonistic". But through conglomeration, control over the ultimate decision-making power for all of these sources -- in several media -- is concentrated in the hands of one corporate master. Conglomeration in several publishing markets has thus given each of several conglomerates decision-making power over a cluster of different sources in different media: trade book publishers, paperback publishers, book clubs, newspapers, broadcasting stations and networks, motion picture companies, etc.

2. Some officers who run publishing subsidiaries for conglomerates and publishing complexes contend they are allowed total freedom. Even if this were true today, the risk is too great that restraints and control sooner or later will be exercised by the corporate master that owns the decision-making power. The First Amendment and Sec. 7 are intended to foreclose those risks.

Furthermore, these contentions fly in the face of conglomerate reality. Conglomerates exercise the prerogatives of ownership, as do large publishing complexes. When the president of a network fails to create programming that keeps it in the #1 position, he gets fired -- even if (or because) the programs were of high quality. It is utterly unrealistic to assume that the same pressures do not affect the officers of publishing subsidiaries of media or other conglomerates, or the divisions of large publishing complexes. The message is not delivered in little notes about particular books. The message is there, loud and clear, in the "bottom line".

3. As one publishing official stated, conglomerate owners of publishing houses "are interested only in the bottom line" -- i.e. "overall profit and loss figures." Trade book and paperback publishers acquired by conglomerates and publishing complexes have been basing their publishing decisions more and more on the "bottom line", rather than on the professional standards of publishing and its cultural and social responsibilities. This inevitable consequence of the loss of independence stimulates the increasing emphasis on the "big book", the loss of opportunity for middle books of quality and for new authors, the unwillingness to keep worthy

books in print, and other abdications of publishing's "social and cultural responsibilities." (See June Mem., pp. 11-14).

4. The quoted phrase is from an article by Oscar Dystal, president of Bantam Books -- the leading mass market paperback publishing company. (THE PAPERBACK REVOLUTION:WHERE HAS IT GONE?; Publishers Weekly, November 14, 1977; pp. 31-33) Mr. Dystal said

> " Competition among (paperback) publishers is also more intense than I can ever remember. There is a battle today for a larger share of the static or declining unit sales I described earlier." (p.32)

That battle, it should be remembered, is being fought primarily by 10 conglomerate-owned paperback publishers who account for 90% of sales, and a very few other companies (several of whom are conglomerate subsidiaries). The "competition" is fueled by the same insatiable greed that stimulates "competition" between the three television networks. It has uncomfortably similar consequences.

Mr. Dystal said that the battle for market shares " is being fought with each publisher's new releases -- the blockbusters, the big book , the proven sellers ..." He pointed out that

> " ...some mass market paperback publishers would like distributors to think that there are only three types of big books.
>
> " The first one's paperback life begins with the record price paid for the paperback rights,which make headlines and starts to create demand. ***
>
> " Then there is the title that the publisher tries to make as a big book -- sometimes called 'the crank-up title' -- which the publisher believes he can hype into a big seller by forcing display with the sometimes illusionary advertising budget that promises coast-to-coast TV support and becomes part of the promotion itself. (See June Mem. pp.9-10)

> "The third 'big book' category is the media tie-in -- the book and the TV series -- or the book and the movie tie-ins that are hyped as sure fire selling mechanisms." ***

Mr. Dystal said that with the "big book-the best seller syndrome" less attention is being given by all paperback publishers to "the quiet big book, the title that sells hundreds of thousands of units per year, every year." He also criticized the tendency to imitate a book that is successful: "this industry needs more innovation in editorial output rather than books that ride on somebody else's coattail."

How does this "competition" between a few conglomerate-owned major paperback firms, so obviously motivated by the "bottom line", affect their ability to fulfill publishing's "cultural and social responsibilities"? Mr. Dystal tells us:

> "This lack of publishing variety and innovation, this lack of broad title inventory availability, this concentration on the big book and fads does something else too that is perhaps even more detrimental to our growth.
>
> "It <u>does not allow us</u> to live up to our cultural and social responsibilities as fully as we should to provide the widest possible choice of books - books that are the legacy of our cultural heritage, and books that explore the fringes of the present and the frontiers of new thinking."

Mr. Dystal next comment again underlines the debilitating effects of this conglomerate "competition":

> "There should be space on at least some paperback racks serviced by jobbers, <u>as there once was not so many years ago</u>, for writers like Henry James and William Faulkner. There should be room for the important books published today on social, political and economic themes." (p.33) (Emphasis added)

The kind of "competition" produced by conglomeration and concentration in paperback publishing is an activity Sec. 7 sought to prevent, by prohibiting the trend to concentration and preserving the existence of independent companies.

III. The Impact of Conglomeration and Concentration On The Security Of The First Amendment Marketplace of Ideas.

Conglomeration and concentration in the various book publishing markets endangers the country's most important social interest -- the diverse and "uninhibited marketplace of ideas" which, said the Supreme Court, "It is the purpose of the First Amendment to preserve..." Every book publishing market is an essential part of the broader First Amendment marketplace.

1. Both the First Amendment and Sec. 7 have a common purpose -- to preserve the existence of independent publishers because the existence of independents is necessary to safeguard the marketplace of ideas. (pp. 13-15, supra). As the Supreme Court has emphasized, the antitrust laws should be rigorously enforced to insure the survival of "diverse and antagonistic sources" of ideas and information. (p. 14, supra). The elimination of independent publishers, the concentration of ultimate decision-making powers over more and more publishers that really have access to the major book markets in in the hands of fewer and fewer corporate masters is repugnant to the First Amendment and Sec. 7. Both require that conglomeration and concentration in the various book publishing markets be halted and reversed.

2. Independent book publishers, engaged only in book publishing, are not vulnerable to outside pressures on their editorial policies and judgments. As subsidiaries of conglomerates, they are vulnerable to pressures on their corporate masters who have other more substantial interests to protect. Important customers and special interest

groups can implement their opposition to particular books, authors or policies by pressures on the conglomerate's more profitable operations. Lucrative government contracts or licenses are more valuable than the publication of a book that might offend officials or legislators whose decisions may affect the conglomerate's fortunes in these enterprises.

Moreover, as subsidiaries of conglomerates or large publishing complexes, book publishers are vulnerable to the censorship of the bottom line. How many books on important social, economic and political themes may not be published by trade publishers who have the capacity to bring them to the national trade book market, because they will not enhance the bottom line? The inherent pressures of conglomeration and concentration in huge complexes are bound to increase their number.

3. Again, some officers of publishing companies acquired by conglomerates contend that they have complete freedom to publish. Even if this were true today, the inherent pressures for restraint and control would be too great to risk. The First Amendment requires absolute protection, to forestall the development of risks. It does not tolerate a system of censorship because today it is benign and dormant. And Sec. 7 is intended to prevent concentration that may produce abuses, not to wait until the abuses occur.

Moreover, recent history teaches that media conglomerates are vulnerable to the pressures of official and unofficial censorship. One of the most virulent forms of censorship ever imposed in the

marketplace of ideas was the blacklisting of authors , actors and directors that occurred in television and motion pictures . Many book publishers have been acquired by conglomerates that own broadcasting stations, networks and motion picture companies. These periods of intense pressure and attempted censorship occur periodically. The marketplace of ideas must be kept strong enough to withstand them when they do occur. Concentration and conglomeration in the book publishing marketplaces has seriously weakened its ability to withstand the next wave of truly intense pressure -- one as virulent as the waves that lead broadcasters and motion picture producers to abdicate their responsibilities to the First Amendment.

Conclusion

The Authors Guild has recommended various steps to reverse the trend to concentration in the book publishing lines of commerce -- in addition to action by the Federal Trade Commission and Department of Justice to block pending mergers and reverse some of the more damaging ones in recent years. These steps are summarized at pp. 15 to 18 of the June Memorandum.

The Guild does not have specific proposals for legislation at this time, since we believe that Sec. 7 and other provisions of the antitrust laws furnish the basis for the various remedies we have proposed, and others we plan to submit to the Commission and Department. However, if effective action is not taken, we would welcome the opportunity to submit proposals for legislative relief to the Subcommittee.

The Authors Guild, Inc.